Secretary for Administration for a determination.

(b) *Processing requirements.*—(1) Requests for mandatory declassification review may be directed to the Department Security Officer, Office of Personnel, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250. The Security Officer shall, in turn, refer the request to the appropriate USDA Agency Head for action.

(2) A valid request must be in writing and reasonably describe the information sought to enable the USDA Agency to identify it.

(3) The USDA Agency shall notify the requester if the request does not identify sufficiently the information sought. The requester shall then be given an opportunity to provide additional information to describe the information with particularity enabling identification of the requested material.

(4) If within thirty (30) days after the notification is mailed the requester does not describe the information sought with sufficient particularity, the USDA Agency shall notify the requester why no action will be taken on the request.

(5) Search and duplication fees will be charged pursuant to the provisions of the Department's Fee Schedule, Appendix A, to Part 1 of this Title. The requester shall be notified of the approximate cost of the search and duplication costs before the search is conducted.

(c) *Processing requests.* Requests that meet the foregoing requirements for processing shall be processed as follows:

(1) The USDA Agency shall immediately acknowledge receipt of the request in writing.

(2) The USDA Agency shall make a determination within ten (10) working days or shall explain to the requester why additional time is necessary. In no case shall the response time for a final determination exceed one (1) year from the date of receipt of the initial request.

(3) When another Agency forwards to the Department Security Officer a request for information in that Agency's custody that has been classified by USDA, the Department Security Officer shall process the request in accordance with the requirements of this section, respond directly to the requester and, if so requested, shall notify the referring Agency of the determination made on the request.

(4) Requests for classified information containing foreign government information may necessitate consultations with other agencies and/or with the foreign originator of the information prior to final action of the request.

§ 10.9 Mandatory review for derivatively classified documents.

(a) Requests for mandatory review for USDA derivatively classified documents shall be processed by the Department Security Officer under the following procedures:

(1) The Department Security Officer shall contact the Agency responsible for orginally classifying the source document for a declassification determination.

(2) If the Agency determines that the originally classified document has been declassified, the Department Security Officer shall so mark the USDA derivatively classified document and release it to the requester.

(3) If the originally classified document has not been declassified, the Department Security Officer shall so notify the requester.

§ 10.10 Appeals.

(a) Appeals from denial of declassification and release of information shall be directed to the Department Review Committee, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250.

(b) Appeals shall be reviewed and decided within thirty (30) working days of their receipt as follows:

(1) If the documents are declassified in their entirety, the Department Security Office shall forward the documents to the requester.

(2)(i) If the documents are not declassified and released in their entirety, the chairman, Department Review Committee, shall forward a letter of denial to the requester notifying the requester of the decision and a statement of justification for the denial.

(ii) If the decision of the committee is to declassify or release a portion of the documents, the chairman of the committee shall forward a letter of partial denial to the requester. The letter shall include a statement of justification for the partial denial. Those portions of the documents which have been declassified shall be forwarded to the requester.

Dated: March 14, 1983.

John R. Block,

Secretary of Agriculture.

[FR Doc. 83-7113 Filed 3-17-83; 8:45 am]

BILLING CODE 3410-01-M

Federal Crop Insurance Corporation

7 CFR Part 424

[Amendment No. 3]

Rice Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Rice Crop Insurance Regulations (7 CFR Part 424), effective with the 1983 and succeeding crop years, by amending the provisions of the policy to provide (1) That insurance attaches to rice seeded on a continuous yearly basis in California only, (2) a clarification as to which "second crop" insurance will not attach, (3) a clarification of the quality adjustment provisions for rough rice, (4) a provision prescribing interest to be charged when premium payments are not made within a certain time, (5) for the addition of a provision to require the insured to file a notice of probable loss when the crop is damaged to the extent that a loss is probable and leave intact a representative sample of the unharvested crop, (6) for the addition of a provision to prescribe FCIC's liability in cases of loss by fire when the insured has other insurance against fire losses, (7) for the replacement of the present single-crop application by a multi-crop application to reduce the time and paperwork demands on the applicant, and (8) minor technical changes to language and format. The intended effect of this amendment is to restore a provision in the regulations regarding losses from fire, improve the debt management practices of FCIC, and revise the system of reporting damage or loss to crops to make the administration of the program more effective.

EFFECTIVE DATE: March 18, 1983.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 (June 11, 1981).

Information collection requirements contained in these regulations (7 CFR Part 424) have been approved by the Office of Management and Budget

(OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003, and 0563–0007.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action does not increase the Federal paperwork burden for individuals, small businesses, or other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Programs to which this amendment applies are: Title-Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established in Executive Order No. 12372 (July 14, 1982), was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

It has also been determined that this action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1512–1 (June 11, 1981). The sunset review date established for these regulations is October 15, 1987.

On Tuesday, August 17, 1982, FCIC published a notice of proposed rulemaking in the **Federal Register** (47 FR 35770) to amend the Rice Crop Insurance Regulations for the 1983 and succeeding crop years. The principal changes addressed in the notice were as follows:

1. The replacement of the single-crop application by a multi-crop application to reduce papework on the part of the applicant.

2. The addition of a provision that unpaid premium balances will bear interest at the rate of one and a half percent simple interest per calendar month or any part thereof starting on the first day of the month following the first premium billing date.

3. The addition of a provision to require the insured to give at least 15 days notice of loss if damage to the crop appears probable, and to leave a representative sample of the unharvested crop intact for 15 days after the date of the notice.

4. The addition of a provision to allow insurance to attach to rice seeded in three or more consecutive years in California only.

5. The addition of a provision to clarify the meaning of a subsequent crop on which insurance will not attach (i.e., a second rice crop following a rice crop harvested in the same calendar year).

6. The addition of a provision to clarify the quality adjustment provision relative to rough rice.

7. The addition of a provision to prescribe FCIC's liability in cases of loss by fire when the insured has other insurance against fire losses.

In addition of these changes, FCIC made minor changes to language and format to include correction of the table of contents, correction of the Appendix—Additional Terms and Conditions, to indicate the party responsible for securing the rights of the Corporation relative to subrogation, and redesignating Appendix B as Appendix A to list counties where rice crop insurance is otherwise authorized to be offered.

The public was given 60 days in which to submit written comments on the proposed rule, but none were received. Therefore, with the exception of minor corrections, the Amendment No. 3 to the Rice Crop Insurance Regulations is hereby published a final rule.

List of Subjects in 7 CFR Part 424

Crop insurance, Rice.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Rice Crop Insurance Regulations, effective with the 1983 and succeeding crop years, in the following instances:

PART 424—[AMENDED]

1. The authority citation for 7 CFR Part 424 reads as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516)

2. The Table of Contents is revised to read as follows:

Secs.
424.1 Availability of rice crop insurance.
424.2 Premium rates, production guarantees, coverage levels and prices at which indemnities shall be computed.
424.3 Reserved.
424.4 Creditors.
424.5 Good faith reliance on misrepresentation.
424.6 The contract.
424.7 The application and policy.

Appendix A, Counties designated for Rice Crop Insurance.

§ 424.7 [Amended]

3. 7 CFR 424.7(d) is amended by removing the introductory paragraph and the application that follows, and substituting the following:

* * * * *

(d) The application for the 1983 and succeeding crop years is found at Subpart D of Part 400–General Administrative Regulations (7 CFR 400.37; 400.38, first published at 48 FR 1023, January 10, 1983) and may be amended from time to time for subsequent crop years. The provisions of the Rice Insurance Policy are as follows:

* * * * *

4. Section 2(b) (2) and (5) of the Terms and Conditions section of the policy in paragraph (d) of § 424.7 are revised to read as follows:

§ 424.7 The application and policy.

* * * * *

(d)* * *

Rice Crop Insurance Policy

Terms and Conditions

* * * * *

2. * * *

(b) * * *

(2) seeded to rice for the two preceding crop years, except in California.

* * * * *

(5) of a rice crop following a rice crop harvested in the same calendar year.

* * * * *

5. Section 5(d) of the Terms and Conditions section of the policy as found in 7 CFR 424.7(d) is revised to read as follows:

§ 424.7 The application and policy.

* * * * *

(d) * * *

Rice Crop Insurance Policy

Terms and Conditions

* * * * *

5. * * *

(d) Interest will accrue at the rate of one and a half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

* * * * *

6. Section 7 of the Terms and Conditions section of the policy as found in 7 CFR 424.7(d) is amended by revising item 7(c), redesignating 7 (d) and (e) as 7 (e) and (f) respectively, and adding a new 7(d) as follows:

§ 424.7 The application and policy.

* * * * *

(d) * * *

Terms and Conditions

* * * * *

7. *Notice of damage or loss.* * * *

(c) Written notice shall be given at least 15 days prior to the beginning of harvest if the rice on any unit is damaged to the extent that a loss is probable. If probable loss is not determined until less than 15 days prior to the beginning of harvest on a unit, notice shall be given immediately and a representative sample of the unharvested rice (at least 10 feet wide and the entire length of the field) shall remain intact for a period of 15 days from the date of the notice, unless the Corporation gives written consent to the insured to harvest the representative sample.

(d) In addition to the notices required in paragraphs (b) and (c) of this section, if a loss is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the service office for the county no later than *30 Days* after the earliest of: (1) The date the harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire rice crop on the unit is destroyed, as determined by the Corporation.

* * * * *

7. Section 8(c)(1) of the Terms and Conditions section of the policy as found in 7 CFR 424.7(d) is revised to read as follows:

§ 424.7 The application and policy.

* * * * *

(d) * * *

Terms and Conditions

* * * * *

8. Claim for Indemnity.

* * * * *

(c) * * *

(1) Mature production quantity which grades No. 3 or better shall be reduced .12 percent for each .1 percentage point of moisture in excess of 14.0 percent and if, due to insurable causes, the value per pound of rough rice, as determined by the Corporation, is less than the market price for the same variety of rough rice grading U.S. No. 3 (determined in accordance with the Offical U.S. Grain Standards) with a milling yield per cwt. of 55 pounds of heads for the short and medium grain varieties and 48 pounds of heads for long grain varieties (whole kernels) and 68 pounds total milling yield (heads, second heads, screenings, and brewers), the number of pounds of such rice to be counted shall be adjusted by (i) dividing the value per pound of the damaged rice (as determined by the Corporation) by the market price per pound at the nearest mill center for the same variety of rough rice grading U.S. No. 3 with the milling yields as stated above, and (ii) multiplying the result thus obtained by the number of pounds of production of such damaged rice. The applicable price for No. 3 rice with the stated milling yields shall be the nearest mill center price on the earlier of the day the loss is adjusted or the date the damaged rice was sold.

* * * * *

8. The Appendix to the Rice Crop Insurance Policy (Additional Terms and Conditions) as found in 7 CFR 424.7(d), is amended by revising section 1.(g) in its entirety to read as follows:

§ 424.7 The application and policy.

* * * * *

(d) * * *

Appendix to the Rice Crop Insurance Policy (Additional Terms and Conditions)

* * *

1. Meaning of Terms. For the purposes of rice crop insurance:

* * * * *

(g) "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may, be selected by you or designated by us.

9. The Appendix to the Rice Crop Insurance Policy (Additional Terms and Conditions) as found in the appendix to 7 CFR 424.7(d) is amended by revising section 6 in its entirety to read as follows:

§ 424.7 The application and policy.

* * * * *

(d) * * *

Appendix to the Rice Crop Insurance Policy (Additional Terms and Conditions)

* * * * *

6. *Subrogation.* You assign to us all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by us. You shall execute all required documents and take appropriate action as may be necessary to secure such rights.

10. The Appendix to the Rice Crop Insurance Policy (Additional Terms and Conditions) as found in 7 CFR 424(d), is amended by adding a Section 11 to read as follows:

§ 424.7 The application and policy.

* * * * *

(d) * * *

Appendix to the Rice Crop Insurance Policy (Additional Terms and Conditions)

* * * * *

11. *Other Insurance Against Fire.* If the insured has other insurance against damage by fire during the insurance period, the Corporation shall be liable for loss due to fire only for the smaller of: (a) The amount of indemnity determined by the Corporation under the policy with the Corporation, or (b) the amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire, as determined by the Corporation from appraisals made by the Corporation.

Appendix B—[Redesignated as Appendix A]

12. Appendix B to 7 CFR Part 424 is redesignated as Appendix A.

Done in Washington, D.C., on March 9, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: March 9, 1983.

Approved by:

Robert H. Sindt,

Acting Manager.

[FR Doc. 83-7155 Filed 3-17-83; 8:45 am]

BILLING CODE 3410-08-M

Food Safety and Inspection Service

9 CFR Parts 306, 317, and 381

[Docket No. 81-038F]

Prior Labeling Approval System

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal meat inspection regulations and the poultry products inspection regulations by expanding the authority of inspectors-in-charge (IIC's) of official establishments to approve certain labeling and by establishing limited types of generically approved labeling. The types of labels or other labeling which may be approved by the IIC include: (1) All final labeling having a sketch approval from the Standards and Labeling Division (SLD) in Washington when the final labeling is consistent with the approved sketch; (2) certain labeling not previously approved by SLD; and (3) certain modifications of previously approved labeling. The types of generically approved labeling include certain modifications of previously approved labeling. The specific types of labeling or labeling modifications included for IIC approval and generic approval, both on a voluntary basis, have been expanded and modified in this final rule reflecting the Department's analysis of the issues raised in the public comments.

Under the final rule, temporary approvals for the use of labeling that may be deficient in some manner may be granted only by SLD for a period not to exceed 180 days, provided certain specified criteria are met. Use of the procedures established by this final rule will provide a more rapid turnaround for labeling approvals and will make more efficient use of Department resources.

EFFECTIVE DATE: June 1, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Joan Moyer Schwing, Deputy Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and

Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-4293.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Department has determined that the final rule is not a major rule under Executive Order 12291. The rule would provide greater flexibility to meat and poultry processors in obtaining label approvals. It would not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Effect of Small Entities

The Administrator has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because this rule will impose no new requirements on industry. The implementation of this rule will provide establishments the option to use all, some, or none of the labeling approval authority delegated to the IIC or to use generic approval of certain types of labeling. Further, any application receiving a negative determination by an IIC may be resubmitted directly to SLD for a new review. Thus, each establishment will have the ability to obtain approvals for certain prescribed labeling changes at the plant or through prescribed regulations only to the extent these procedures provide benefits to that plant. As a result, the Department believes that the regulated industry will be provided greater flexibility, faster label review and processing, and consequently, a saving of time and money. Moreover, a labeling consulting firm which was generally critical of the document submitted information which indicates that this rule will not result in a significant economic impact to those firms which service the regulated industry by expediting label approvals in Washington, DC.

Background

The Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*) direct the Secretary of Agriculture to maintain meat and poultry inspection programs designed to assure consumers that meat and poultry products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged. Consistent with this authority, regulations have been promulgated which provide that no labeling shall be used on any product bearing any official inspection mark until it has been approved in its final form by the Administrator (9 CFR 317.4 and 9 CFR 381.132). In order to assure that meat and poultry products are in compliance with the Acts and the regulations promulgated thereunder, the Food Safety and Inspection Service (FSIS) presently conducts a prior approval program as specified in 9 CFR 317.4, 317.5, 381.132, and 381.134 for labels and other labeling to be used on federally inspected meat and poultry products. This program is administered in Washington, DC, by the Standards and Labeling Division (SLD). Currently, the IIC also has the authority to approve labeling modifications under relatively limited circumstances as specified in the meat and poultry products inspection regulations (9 CFR 317.4(c), 317.4(d), 317.5, 381.134, and 381.135).

In an effort to streamline the label approval process, the Department decided in 1980 to explore the feasibility of delegating certain additional labeling approval authority to field personnel. A FSIS Task Force was organized to review the overall concept of field delegation, identify the various options available, explore the ramifications of such delegation of authority, and estimate its potential effect upon the truthfulness and accuracy of labeling. A pilot program was initiated upon the recommendation of this Task Force to test the feasibility and effectiveness of delegating limited labeling approval authority to the IIC. The IIC is the Federal meat and poultry inspection program employee in charge at an official establishment. The success of the pilot program demonstrated that an appropriate level of uniformity and regulatory control can be maintained in the labeling area by delegating limited labeling approval authority to the IIC.

Over the past few years, the current labeling approval program has been the subject of considerable analysis and discussion, both within and outside the Department. The Department has received a number of industry petitions requesting specific changes in or the elimination of the prior label approval program in order to improve its efficiency and reduce costs associated with its operation. These petitions from the American Meat Institute, the National Association of Margarine Manufacturers, the National Food Processors Association, and James V. Hurson Associates, Inc., were discussed in some detail in the May 21, 1982, proposal (47 FR 22101).

The Proposal

After careful consideration of the Task Force recommendations, as well as the comments and industry petitions received, the Department published a proposal in the **Federal Register** of May 21, 1982 (47 FR 22101) to expand the authority of the IIC of official establishments to approve certain labeling and labeling modifications and to establish limited categories of generically approved labeling. More specifically, the proposal would have created three categories of labeling. The first category—labeling which would have required SLD approval—would have been reserved for labeling involving complex issues or issues where consistency is both important to maintain and difficult to achieve if delegated to the local level. The second category—labeling which the IIC could have approved with a later audit by SLD—would have involved labeling or labeling modifications, which the IIC is fully capable of approving, but because of the nature of the change would have needed to be rechecked to detect possible errors, to assure that the Department policy is consistently applied, and to maintain a central labeling approval file. The third category—generic labeling approvals which the IIC simply could have kept on file for his or her records—would have involved labeling or labeling modifications for which prior approval by SLD or the IIC is believed to be unnecessary and/or labeling for which SLD is not in a position to audit meaningfully. Such generically approved labeling would not have been included as part of the central labeling file; however, the establishment would have been required to provide a copy of the labeling to the IIC prior to use.

The use of the IIC to approve labels or other labeling and the use of generically approved labeling, as proposed, would have been voluntary. Official establishments would have had the option of submitting applications for any and all labeling to SLD. Written authorization from the Department would have been required as a precondition to the use of any labeling except for generic approvals submitted to the IIC. Denial of a labeling application by the IIC would have precluded use of the labeling unless and until authorization had been obtained from SLD. Temporary approvals for the use of labeling that would have been deficient in some manner could have

been granted by SLD for a period not to exceed 180 days, provided certain specified criteria had been met.

Comments

In response to the proposed rule, the Department received 89 comments that were postmarked on or before August 19, 1982, the close of the comment period.

Eighty-one of these comments were submitted by meat and poultry industry members and groups including slaughterers, packers, processors, distributors, and their trade associations and representatives; ten of these comments endorsed the comments of several trade associations. The remaining eight comments were submitted by individuals, a State government official and agency, an ex-food inspector, and a labeling consulting firm. While the positions taken in the comments varied, almost all commmenters supported modifying the current labeling approval process. The issues raised by the commenters and the Department's response to each issue are as follows:

1. *IIC approved labeling.* Forty-eight comments addressed the provision to delegate limited labeling approval authority to the IIC. Almost all of these comments were submitted by industry members and trade associations. Three individuals also commented on this aspect of the proposal, as did a labeling consulting firm.

Numerous industry members and trade associations specifically supported the purpose and intent of the proposal; i.e., to streamline and simplify the labeling approval process. As such, the proposal was lauded as "a step in the right direction." Savings of time and money were cited as support for this position. Delegating labeling approval authority to the IIC was specifically commended for increasing efficiency and decreasing the time and expense involved in getting labeling approvals. A number of industry members noted their favorable experience with the pilot program as support for field delegation. In addition, one industry member supported the proposal for attempting to create greater uniformity between the meat and poultry regulations.

A number of commenters criticized the proposal as complicated, costly, unnecessary, unreasonable, and/or harmful to small businesses. Commenters argued that the proposal failed to address many of the concerns about and criticisms of the current system, with two trade associations who had petitioned the Department for specific changes in the current labeling approval system continuing to advocate their positions. These commenters suggested that the IIC's authority should be limited to monitoring products and product labeling to ensure compliance with USDA requirements, rather than involving the IIC in the approval process. Moreover, several trade associations and industry members suggested that eventually prior labeling approval should be abolished and/or replaced by a system which more closely resembles the approach taken by the Food and Drug Administration.

A number of commenters specifically took issue with the idea of decentralizing labeling approval authority and suggested that the Department abandon its plan to have the IIC review labeling. They argued that the current system basically was working well. These commenters, who mostly characterized themselves as small businesses, contended that decentralizing the labeling approval system would result in inconsistent labeling decisions which, in turn, would create unfair competitive advantages. A system which allows unequal treatment, it was further argued, encourages corruption. Several commenters also questioned the IIC's ability to assume additional responsibilities because of inexperience and time constraints. Field delegation was further criticized as more complicated than the present system, advantageous to establishments having resident IIC's, costly to implement, and inefficient.

One trade association stated that, in general, IIC review of labeling would be more expeditious than SLD review and felt that it would be preferable to current procedures for that reason. However, it contended that expansion of the IIC's role in this manner would create its own set of problems including a lack of uniformity and consistency in labeling decisions, the need for substantial financial resources to train the IIC's, and an increased workload for the IIC.

Th Administrator recognizes the concerns raised by those commenters who conceptually supported the proposal yet felt that the Department did not go far enough in its attempt to eliminate what were characterized as many other problems inherent in the current labeling approval system. Many of these commenters commended the Department for its proposal to eliminate SLD involvement in all labeling decisionmaking and further advocated either expanding the generic labeling category or abandoning the entire system. The Department also acknowledges the concerns voiced by that segment of the industry, particularly small businesses, who expressed serious reservations about changing a system which provides services to all users, regardless of size, in an equitable manner. A number of these commenters believe that a strong central labeling approval authority is needed. The Department believes that this final rule represents a reasonable balance of these two positions. In conjunction with the sentiments expresed by numerous commenters, the Department also sees this initiative as a progressive step towards simplifying and streamlining the labeling approval process while maintaining the high level of protection consumers have come to expect from the Department in this area.

Specifically, the types of labeling which the IIC could approve were selectively chosen because they are sufficiently simple or involve changes so minor that they present little risk of misbranding. Moreover, the Department believes that uniformity and consistency can be further controlled by having the IIC-approved labeling submitted to SLD for auditing. The review and analysis of the pilot program demonstrated the competence of the IIC to assume limited labeling approval authority without jeopardizing uniformity or regulatory control in the labeling area. Moreover, the pilot program analysis revealed that labeling was acted upon and returned to plant management in a shorter period of time when handled through the IIC and that there was little impact upon the IIC's workload as a result of the new responsibilities.

Some commenters argued that the IIC's authority should be limited only to monitoring products and product labeling rather than approving and/or withholding the use of labeling. The Department believes that this would represent an inefficient use of Department personnel and more importantly, would contradict the language and intent of both the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*). Section 7(e) of the FMIA (21 U.S.C. 607(e)) and section 8(d) of the PPIA (21 U.S.C. 457(d)) provide the Secretary with the authority to withhold the use of any marking, labeling, or container in use or proposed for use with respect to any article subject to the Acts if there is reason to believe that the marking or labeling or size or form of the container is false or misleading in any particular. Products which are misbranded may not be marked as "inspected and passed." Furthermore, such product may not be removed from an official establishment, sold, or otherwise distributed. It is the responsibility of the IIC to assure

compliance with these requirements. Moreover, the IIC is in the unique position of actually having the opportunity to review the product itself in order to ensure that the product and its labeling are in compliance. The SLD staff does not ordinarily have this opportunity. The Administrator, therefore, agrees with those commenters who stated that this delegation of authority would result in increased efficiency for FSIS and thus has concluded that the IIC should have the opportunity to approve labeling and labeling modifications that are sufficiently simple that the accuracy of labeling and the uniformity of labeling decisions would not be adversely affected.

To further allay some of the concerns of smaller firms, the Department wishes to emphasize the voluntary nature of this program. Establishments will continue to retain the option of submitting any and all labeling to SLD. Thus, the Department expects only benefits to accrue to those establishments using the new system. These benefits include a faster turnaround time for approval of labeling, less burdensome paperwork, and hopefully, a better understanding by plant management of labeling decisions.

The need for IIC training, as well as prompt and continuous updating of information, was noted in the comments submitted by a few industry members and a trade association. In addition, a number of commenters emphasized the importance of equitable and prudent labeling determinations. The Department recognizes the importance of IIC training to assure that equitable and prudent labeling decisions are made and that generic labeling is in compliance with the regulations. In this regard, the Department has developed a comprehensive training guide and has undertaken the responsibility of providing extensive training for all IICs with labeling responsibilities.

The Administrator disagrees with those commenters who criticized this program as potentially costly to implement. The Department believes that the cost of implementation would not be excessive. The most significant cost to the Department would be that of training the approximately 3,200 IICs, and this cost would be required whether the IIC is approving or simply monitoring product labeling. After the initial one time cost of IIC training, labeling approval would be incorporated into future IIC training and refresher courses. Moreover, the Department believes that the benefits to both the government and industry from operating a more streamlined and efficient labeling approval system far outweigh the costs involved in implementation.

One industry member who had participated in the pilot program expressed some concern about identifying IIC approvals. A system had been developed for the pilot program which identified each label by a specific number and provided for inclusion of each approved label in the SLD central labeling file. This numbering system has been revised to accommodate any problems encountered in the pilot program. The new numbering system has been highlighted in both the training guide and training sessions in an effort to eliminate any further confusion or difficulty in this area.

One processor suggested expanding the proposed IIC labeling approval authority to include labeling modifications reflecting a change in the quantity of an ingredient shown in the formula with a concurrent change in the order of predominance shown on the label. As discussed, the items proposed for inclusion in this category of labeling were considered sufficiently minor or simple that the application for label approval in question would present little opportunity for misbranding. This is not believed to be the case with a labeling modification reflecting a change in the quantity of an ingredient shown in the formula with a concurrent change in the order of predominance listed in the ingredient statement shown on the label. This type of labeling modification has the potential to mislead consumers if the necessary labeling changes are not made or are made incorrectly.

Changing the quantity of an ingredient in a formulation could create a variant from a product standard which often specifies the kind and minimum amount of meat and/or poultry, the maximum amount of nonmeat ingredients, and any other ingredients allowed or expected in the final product. For example, the standard of composition for "Chicken a la King" requires that, if a product bears this name on its label, at least 20 percent cooked poultry meat must be used in the recipe (9 CFR 381.167). With less than 20 percent cooked poultry meat in the formula, this product would no longer comply with the regulations. As a result of the potential problems associated with this type of modification, this suggestion has not been adopted.

Another industry member urged the Department to closely monitor the field delegation program during its initial critical stages to assure a smooth transition and resolve any potential problems. This commenter specifically suggested that SLD audit most of the initial labeling forwarded to it by the IIC, with a tapering off of the auditing procedures when appropriate. The Department appreciates the concern expressed by this commenter. The field delegation program represents a dramatic departure from current labeling approval practices and, as such, the Department also recognizes the value in closely monitoring this program, especially during the early stages of its implementation. In this way, the Department hopes to achieve the same success nationally that it achieved on a more limited scale during the pilot program.

2. *Generically approved labeling.* In response to some of the criticisms of the current label approval program and in an effort to lessen the regulatory burden on industry without compromising the truthfulness and accuracy of meat and poultry labeling, the Department proposed a category of labeling that would not require the formal prior approval of SLD or the IIC. Instead a copy of these generically approved labels would simply be submitted to the IIC prior to use. This category is comprised of labeling in final form which has been previously approved by SLD or the IIC and which is being submitted to the IIC with a minor modification. Since the IIC would not be formally approving such labeling prior to its use, the primary responsibility for ensuring that the labeling is in compliance with the regulations would rest with the establishment. As proposed, generic labeling would not be included in the SLD central labeling file, nor would SLD conduct an audit on such labeling.

Thirty-four comments specifically addressed the provision to establish a category of generically approved labeling. These comments were submitted by industry members, trade associations, and a labeling consulting firm.

All but one of the commenters supported the concept of generic labeling approvals. This commenter, a labeling consulting firm, questioned the legality of this approach arguing that the law seems to clearly state that the Secretary or his designee must actually approve all labeling. This issue has been carefully reviewed by the Department's Office of General Counsel (OGC), which disagrees with this commenter's interpretation of the FMIA and the PPIA. While the Acts do require the Department to approve labeling prior to use, they do not dictate the system or procedures by which such approvals are granted. Thus, this Department has concluded that certain broad classes of

labeling which meet certain specified criteria could be granted "generic" approval through the development of specific regulations. Accordingly, this aspect of the proposal is being retained.

Numerous commenters commended the Department for recognizing that many labels and labeling modifications do not need formal approval. Others cited savings in time and/or money as reasons for their support. Many industry members and trade associations, however, stated that this category of labeling, as proposed, was too narrowly defined. A number of commenters suggested expanding this category to include those labels and labeling modifications proposed for IIC approval. Many of these commenters argued that generic approval would be appropriate for this category of labeling because the items included for IIC approval present little risk of misbranding.

The Department is pleased with the strong endorsement given to the concept of generic labeling approvals. As stated in the proposal, this labeling category is expected to reduce paperwork and provide for a more meaningful utilization of auditing resources. While the Department acknowledges industry's desire to expand this category of labeling through this rulemaking, it is important to again emphasize the experimental nature of the procedure. Given the Department's responsibilities to assure that meat and poultry products are properly marked, labeled, and packaged, the Department is reluctant to expand the generic labeling category until it can be demonstrated that this procedure will continue to provide the public with labeling that is accurate and not misleading. Instead, the Department believes it best to proceed cautiously until a body of data has been gathered which can be analyzed in order to assess the validity of further change in this direction. This belief has been reinforced by those commenters who expressed concern over the elimination of a centralized labeling approval system which, they contended, would result in unfair and inconsistent labeling decisions.

In light of these concerns, the Department is reluctant at this time to expand generically approved labeling. The Department continues to subscribe to its position that this category of labeling should initially be narrowly defined. However, the Department hopes this labeling category can be expanded if it is proven successful and, as suggested by one trade association, will continue to review the approval program and provide for additional simplification wherever possible. In its continuing review of this issue, the Department is considering the possibility of proposing to expand the class of generic labels for those plants which have demonstrated the technological and managerial capacity to ensure misbranding does not occur. The Administrator has concluded that this issue should be addressed separately as a potential future amendment to its regulations. At the present time, the Department is encouraging suggestions along these lines which will lead to the development of such a proposal.

In addition to the changes suggested above, several additional labels and labeling changes not addressed in the proposal were also suggested for inclusion in the generic labeling category by a number of commenters or, according to one trade association, at least for IIC approval. These labels and labeling changes had been recommended by the American Meat Institute (AMI) in its August 1981 petition to be included within the generic labeling category and include the following:

1. The addition, deletion, increase or decrease of a permitted ingredient in a standardized product provided the product continues to comply with the established standard.

2. The addition, deletion, increase or decrease of a permitted ingredient present at less than or equal to 5 percent in a non-standardized product.

3. Labels of products shipped between plants of the same company.

4. Labels of products shipped to food service establishments without quality claims, nutritional claims, or geographical claims.

5. A change in a package vignette not effecting mandatory information.

6. The addition or deletion of open dating information. After careful examination of these items and the petitioner's rationale for including them in the generic labeling category, the Administrator has concluded that the first two suggestions, i.e., the addition, deletion, increase or decrease of a permitted ingredient in a standardized product provided the product continues to comply with the established standard and the addition, deletion, increase or decrease of a permitted ingredient present at less than or equal to 5 percent in a non-standardized product, represent modifications that have significant potential for misleading consumers if the necessary labeling changes are not made or are made incorrectly. Furthermore, such changes could frequently involve complex labeling issues. For example, the Department recently published a final rule modifying the standard, labeling requirements, and permitted uses for mechanically separated (species) (MS(S)). The promulgation of this final rule has elicited a variety of complicated questions regarding the use of MS(S) in standardized products which the Department has been responding to on a case-by-case basis. Moreover, the charts of approved substances contained in the regulations (§ 318.7 and § 381.147) list a variety of chemical substances along with their general classification, their function, the categories of products in which they may be used, and the permitted usage levels. The use of these so-called restricted ingredients is carefully limited by regulation, and excessive usage may raise potential health and safety issues. For these reasons, the changes suggested above are believed to fall outside of the scope of "minor modifications" which, in general, present little or no possibility of misbranding. Moreover, these types of changes would consume considerably more time for the IIC to approve than other changes included in this category. Accordingly, these changes have not been adopted.

The third and fourth suggestions, i.e., labels of products shipped between plants of the same company and labels of products shipped to food service establishments without quality, nutritional, or geographical claims, represent items which may reach consumers with the labeling applied by the establishment. This possibility creates the potential for misbranded product to reach the consumer because the Department has no comprehensive means of monitoring where product goes after inspection. The statutes do not distinguish between retail and wholesale product labeling. The Administrator has, therefore, concluded that these items should not be included in the generic labeling category.

The fifth suggestion, i.e., a change in a package vignette not affecting mandatory information, is one which clearly may present the potential for misleading consumers. It has long been recognized that a product vignette is a powerful marketing tool in that many purchasing decisions are made on the basis of its appeal. The Department also recognizes, however, that this is an area of labeling approval where SLD is severely limited in its ability to assure accurate and non-misleading information. It is the IIC who is actually in the best position to assure that the picture on the label accurately represents the contents of the package because it is only the IIC who has the

opportunity to review both the product and its labeling. Based on this recognition, the Department is amending the final rule to include this item as a minor modification which may be approved by the IIC.

The last suggestion, i.e., the addition or deletion of open dating information, relates to an area over which SLD and the IIC have little, if any, control since their knowledge of the handling and storage conditions of products once they leave the establishment is extremely limited. As a result, the Department believes this is a change which can be generically approved without diminishing the quality of the labeling. Thus the final rule is being amended to include this item among the minor modifications which can be generically approved, provided the open dating information is in compliance with the regulations (9 CFR § 317.8(b)(32) and § 381.129(c)) and the addition of such information does not crowd or obscure mandatory labeling information.

One meat processor also recommended that the generic labeling category should include changes in the type of packaging material used, for example, film versus casing, provided no change in the labeling is made. The Department believes that this change can be generically approved. Such changes have little potential for misleading the consumer because the original labeling has been reviewed and approved by SLD or the IIC. Changing the packaging material should have no effect on the approved labeling. The "false or misleading" provisions of the regulations will further assure that all mandatory labeling information appears as required and is sufficiently prominent. This modification is expected to give industry greater flexibility without altering the quality of the labeling. As with other generic approvals, a copy of the labeling will have to be submitted to the IIC for filing prior to use.

The proposed provisions permitting generic approval for a change in the arrangement of directions pertaining to the opening of cans or the serving of a product represents a labeling modification which the IIC can currently approve. In fact, the wording of these proposed provisions remains essentially unchanged from the current wording contained in the regulations. In reviewing these provisions, however, the Department realized that they are narrower in scope than was intended. The Department believes that changes in both the language and arrangement of directions could be generically approved without affecting the accuracy of the labeling or the uniformity of labeling decisions, provided the addition or amendment of such information does not crowd or obscure the mandatory labeling information. Accordingly, these provisions are being amended in the final rule to reflect this expanded responsibility.

In discussing the role of the IIC, a few commenters expressed concern over the IIC's authority to withhold use of generically approved labeling if it is believed to be "false or misleading." One company suggested establishing a time limit after which the IIC may not withhold the labeling or a temporary approval would be granted. A trade association suggested that the IIC should notify the establishment of any labeling problem and bring it to the attention of SLD for appropriate action. Noting the importance of holding the IIC accountable for withholding product, another trade association recommended that the IIC should identify the potential serious violation on a copy of the transmittal form and provide a copy to the establishment.

In analyzing these comments, it is useful to review the Department's statutory responsibilities in this area. As noted earlier, the FMIA and the PPIA are quite specific in regard to the use of labeling which is false or misleading. Section 7(d) of the FMIA (21 U.S.C. 607(d)) and section 8(c) of the PPIA (21 U.S.C. 457(c)) prohibit the distribution of any article under any name or other marking or labeling which is false or misleading, or in any container of a misleading form or size, but permits the use of established trade names and other marking or labeling and containers which are not false or misleading and which are approved by the Secretary. Additionally, section 7(e) of the FMIA (21 U.S.C. 607(e) and section 8(d) of the PPIA (21 U.S.C. 457(d)) provide the Secretary with the authority to withhold the use of any marking, labeling, or container in use or proposed for use with respect to any article subject to the Acts if there is reason to believe that the marking or labeling or size or form of the container is false or misleading in any particular.

As discussed in the proposals the Administrator continues to believe that the IIC, acting as the Department's representative, should continue to have the authority and responsibility to withhold the use of any labeling which is contrary to the requirements of the FMIA and the PPIA. Thus, the provision confirming such authority is being retained. Questions regarding any labeling which is being withheld by an IIC could be immediately presented by the establishment to SLD for review.

3. *Appeals of Labeling Decisions.* Nineteen comments addressed the issue of labeling appeals. More than half of these comments were submitted by industry members. The remainder were submitted by trade associations.

Almost all of the commenters advocated the development of a formal or informal procedure to expeditiously appeal labeling decisions to the Administrator. Several commenters noted the importance of establishing a timetable for resolving labeling disputes. One week was suggested by a few commenters as a reasonable time period for decisionmaking.

The Administrator continues to believe that neither the Department nor the public will be better served by the establishment of a rigid appeals system which imposes strict time limits on decisionmaking. Particularly at this time when technological innovations in food processing and increased public concern about the presence of various substances in foods generate complex issues for SLD and the Department, a requirement of decisionmaking within a specifically limited period of time may prove to be unrealistic in a number of specific cases. In fact, if the Department were to be forced to make labeling determinations within a specified time period, the Administrator would be likely to err on the side of conservatism if he has only limited information which suggests that a label might be false or misleading. This could result in a greater number of labeling denials than would otherwise be the case. Accordingly, no regulatory changes are being made regarding a formal appeals process.

It is apparent from a review of the comments to this issue that there was some confusion regarding the proposed changes in the area of labeling appeals. As indicated in the proposal, appeals of informal decisionmaking within the Department are presently controlled by § 306.5 of the meat inspection regulations and § 381.35 of the poultry products inspection regulations. The provision in the meat inspection regulations is general in scope and establishes a chain-of-command procedure for appealing decisions of any Department employee. This regulation states that any appeal from a decision of any program employee shall be made to the immediate supervisor having jurisdiction over the subject matter of the appeal, except as otherwise provided by the applicable rules of practice. This section is intended to apply to most decisions made within the Department. In light of this existing

provision, the Administrator believes it should be expressly provided that denial of a labeling application by the IIC would not be appropriately appealed to the IIC's field supervisor. Rather, an establishment would simply submit a labeling application which has been denied by the IIC directly to SLD for review.

While the appeals provision in the meat inspection regulations encompasses all types of decisionmaking, the poultry products inspection regulation is narrower in scope. This provision is specific to inspection decisions such as the decision to retain product for further examination or the decision to condemn poultry. With these types of decisions, timing becomes a critical factor. This regulation includes a 48-hour time limit within which an appeal must be filed. No change was proposed for this regulation other than, for the sake of consistency between the meat and poultry products inspection regulations, clarifying that the denial of a labeling application by the IIC would not constitute a basis for an appeal. The proposed clarification to the appeals provisions in both the meat and poultry regulations is being adopted in the final rule. The 48-hour time limit does not apply to labeling appeals.

In regard to labeling applications submitted to both the IIC and SLD, one trade association suggested a "fast track" review in Washington if an IIC rejects a label. The types of labeling which can be approved by the IIC, i.e., final labeling having SLD sketch approval and "simple" labeling are, by design, routine and noncontroversial. Thus, the Administrator has concluded that there is no need to establish a special mechanism to process these applications in Washington. Establishments have always been able to receive priority consideration from the system if time is a critical factor, and this will continue to be the case. Accordingly, this suggestion is not being adopted.

One industry member suggested including a question on the application form to identify labeling that has been submitted to the IIC. While the Department believes this information may be useful, it also realizes that this may represent an unnecessary requirement. As is presently the case, inconsistent labeling decisions can be identified through the usual auditing procedures.

4. *Temporary approvals.* Twenty-eight comments addressed the issue of temporary approvals. All of these comments were submitted by industry members and trade associations.

Most commenters supported the provision to formalize the temporary approval process. Moreover, there was no opposition to the proposed criteria for granting such approvals. These criteria include a demonstration by the applicant that: (1) The proposed labeling would not misrepresent the product; (2) use of the labeling would not present any potential health, safety, or dietary problems to the consumer; (3) denial of the request would create undue economic hardship; and (4) an unfair competitive advantage would not result from the granting of the temporary approval.

While the attempt to codify the practice of granting temporary approvals was welcomed, the 180-day limit proposed for such approvals was criticized as inadequate, unrealistic, inflexible, and/or arbitrary. Most commenters indicated that extensions for temporary approvals should be permitted on a discretionary basis, with some suggesting that temporary approvals should remain in effect until new labeling is printed. A few commenters also suggested that temporary approvals for labeling containing the word "new" should become effective on the date of use rather than on the approval date. The Department carefully considered the comments on this issue and found many of the arguments to be persuasive. In general, the Department continues to believe that 180 days provides sufficient time for applicants to correct labeling that is deficient in some respect. This time limit is generally consistent with past and present approval practices. The Department recognizes, however, that there may, on rare occasions, be extenuating circumstances beyond the control of the applicant which would require an extension of the 180 day limit. Thus, the Department is retaining the 180 day limitation on temporary approvals provided all four of the criteria are met. In response to those commenters who criticized this time limit as inflexible, the Department will consider extending a temporary approval beyond the 180 day limit if it can be shown that new circumstances, also meeting the established criteria, have developed since the original temporary approval was granted which make it impossible to correct the labeling deficiencies in the time allotted.

In regard to labeling containing the word "new," the Administrator acknowledges the concerns of those commenters addressing this issue and believes that the expiration date for "new" labeling can also be based on the date the product is introduced into the market in addition to the traditional method of establishing the expiration date on the basis of the date the labeling is approved. Accordingly, this suggestion is being adopted as an alternative to the traditional method. Information regarding the product introduction date should be submitted to SLD at the time of label approval if this alternative is selected. It is important to note that the approval for labeling containing "new" terminology is not in actuality a temporary approval as defined in this section because the label which is initially approved is not deficient in any manner; however, use of such labeling for an indefinite period of time would mislead consumers. Thus, in the interest of truthful labeling, its use has been limited to six months. Historically, six months has been considered a reasonable and adequate period of time to introduce new products into the marketplace; however, the Department will consider extending this approval if information, such as documented proof of a delay in marketing, is submitted which justifies such an extension.

A number of commenters also criticized this aspect of the proposal for limiting the IIC's authority to grant temporary approvals. Some argued that the IIC should have the authority to grant temporary approval of labeling that he or she has the authority to approve in final form. However, the Administrator continues to believe that temporary approvals by their nature represent complex labeling decisions which, for the sake of consistency, uniformity, and control, need to be submitted to SLD for approval.

Commenters further criticized the Department for suggesting that temporary approvals would generally not be granted for generically approved labeling which was subsequently found to be deficient. Several commenters indicated that this would act as a disincentive for establishments to use generically approved labeling.

The Department has reviewed this concern and realizes that generically approved labeling can present two general types of errors. The first type of error involves labeling that is submitted to the IIC for filing prior to use which contains some minor modification to previously approved labeling. This labeling, by definition, qualifies for generic approval. If, upon review by the IIC, a deficiency is discovered in such labeling, application may be made to SLD for temporary approval. In such a case, a temporary approval may be granted for 180 days if the applicant can demonstrate that the four established criteria are met.

The second type of error involves labeling that is submitted to the IIC for filing prior to use which does not qualify for generic approval. If, upon review by the IIC, a deficiency of any magnitude is discovered in such labeling, it is improbable that a temporary approval will be granted. If the Department were to literally grant temporary approvals for this type of error, widespread abuse of the concept of generic labeling could result because the Department would be condoning a system where some establishments could intentionally print erroneous labels in expectation of such an approval. Therefore, the Department is reluctant to grant temporary approvals for labeling which has this second type of error.

5. *"Sketch" labeling.* Twenty-three commenters addressed the proposed definition of "sketch" labeling. Almost all of these comments were submitted by industry members. Several trade associations and a labeling consulting firm also commented on this issue. All of the commenters objected to requiring a printer's proof to be submitted for sketch approval. This requirement was criticized as expensive, impractical, burdensome, time consuming, and/or discriminatory to small businesses. These commenters argued that hand-drawn sketches should be sufficient for IIC approval. A number of commenters suggested or endorsed the idea of recognizing two different types of "sketch" labeling, one which would be considered equivalent to a printer's proof and thus, subject to approval, and second which would be considered a rough draft submitted only for review and comment.

The Department did not intend its definition of "sketch" labeling to impose an unnecessary or unfair burden on industry. However, there was some concern raised in the comments to the pilot program which indicated that if sketch labeling is too vague the IIC may have difficulty comparing it with final labeling. As a result, the Department was interested in establishing guidelines for sketch submissions to assure that they are sufficiently representative of the final labeling. Thus, the proposed definition was intended to assist the IICs in their labeling approval responsibilities and hopefully, avoid any problems in this area. In view of the comments on this issue, the Department is amending the definition of sketch labeling to clarify that any type of copy which clearly shows all labeling material, size, location and an indication of final color, can be submitted for sketch approval in lieu of a printer's proof. Although a printer's proof is most desirable, a carefully hand-drawn sketch which indicates letter size and location, layout, and colors appearing on the final labeling is acceptable. The Department does not see merit in the suggestion that the sketch labeling be delimited to two specific types. This would only serve to complicate the labeling approval process. Thus, this suggestion is not being adopted in the final rule. SLD will continue to review and comment on rough drafts of sketches. These rough drafts cannot, however, be submitted for sketch approval.

6. *Voluntary provision.* Seven commenters, six industry members and a trade association, supported the voluntary nature of the proposed IIC/generic labeling approval system. Several of these commenters stressed the importance of retaining the option to submit applications to SLD if preferred and/or if the IIC denies an application. The Department agrees with these commenters and continues to regard the voluntary nature of the IIC/generic approval program appropriate and important to its success. Thus, the use of the IIC to approve labeling and the use of generically approved labeling will be optional. Establishments may continue to submit any and all applications for labeling to SLD.

7. *Multi-plant corporations.* Seven commenters, five industry members and two trade associations, criticized the proposal for providing insufficient relief for multi-plant operations. Many of these commenters suggested that IIC or generic labeling approval granted at one establishment should serve as an approval at all other establishments within the same company.

The Department disagrees with those commenters who contended that the proposed rule would help mostly those manufacturers with single establishments. All labeling which falls within the generic labeling category is, by definition, automatically approved. The establishment simply has to submit a copy of such labeling to the IIC prior to use. This is a dramatic departure from present practices and as noted in the proposal and most of the comments, this change is expected to save both time and money for those firms using this new system.

The Department continues to regard its decision to allow each IIC to approve labeling only for use in his or her particular plant as necessary. An IIC in one plant would have no way of quickly determining whether a label presented from another plant within the same company is actually in use as it is presented to the IIC. In order to avoid any problems in this regard, the Department is adopting, as proposed, the limited provision to permit on previously approved labeling only modifications of newly assigned or revised establishment numbers for that particular establishment. A multi-plant corporation seeking one labeling approval for use in several plants should submit its labeling application to SLD. The application should indicate all establishments which will be producing the product. Copies of the SLD-approved labeling will then be sent to the IIC at each establishment.

8. *Miscellaneous.* Three commenters, two industry members and a trade association, expressed concern over the language of § 381.132(a) of the poultry products inspection regulations. These commenters contended there is an inconsistency between this proposed section and the existing § 381.115. The former provision refers to the use of labeling "on any product" while the latter provision refers to labeling on any product "at the time it leaves the official establishment."

After carefully examining the language of these two provisions, the Administrator has concluded that § 381.132(a) needs to be further amended to clarify that it, too, refers to labeling on any product leaving the establishment. The apparent inconsistency in the language of the two provisions cited above was unintentional. The final rule will be amended accordingly.

One commenter asked for clarification regarding the operation of the labeling approval system in approved foreign establishments exporting product to the United States. This regulation expands the authority of the IIC of official establishments to approve certain labeling and labeling modifications and establishes limited categories of generically approved labeling. The effectiveness of all inspection programs in countries which export product into the United States is monitored by FSIS personnel, but the in-plant inspectors are obviously employees of the foreign governments. Since there is no IIC in a foreign establishment, there will be no change in the labeling approval system for such an establishment wishing to export product to the U.S. Labeling for export to the U.S. will continue to be submitted to SLD in the usual manner.

In reviewing the proposed provisions permitting the IIC to add, delete, or substitute the official USDA grade shield, the Department has realized that, unlike the official poultry grade shield which is applied to poultry product labeling, the official grade mark for meat

is applied only to carcasses or wholesale cuts of meat. As such, changing the official meat grade is not a labeling modification. Accordingly, this provision is being deleted from the IIC-approved labeling category of the meat inspection regulations. Many applicants, however, submit labeling which includes grading terminology. This information falls into the category of a quality claim. Labeling bearing such information, therefore, must be submitted to SLD for review.

Although there is no official meat shield for retail labeling, the use of grading terminology on labeling has increased in recent years as a competitive marketing tool. Such terminology appears in different forms on product labeling, for example, "Our Prime Selection" or "Choice of the East" and as such, it falls into the category of a quality claim because it implies that the product is of a certain quality. Moreover, it is not used in conjunction with an official shield and often is not preceded by "U.S." or "USDA." This is not the case with poultry labeling where the poultry grade can appear only in conjunction with the official poultry grade shield. To further complicate the meat grading issue, attempts have been made to use terminology alluding to Federal grades on labeling when the product itself has not been federally graded. Use of such terminology in this manner is clearly misleading and thus, contrary to the FMIA. In light of this problem, the Administrator has concluded that meat grading terminology falls outside the scope of simple labeling which may be approved by the IIC. Labeling bearing such terminology should be submitted to SLD for approval to assure that such claims are accurately and appropriately used.

As a note of clarification, this final rule deletes, as proposed, a provision currently contained in the meat inspection regulations (§ 317.4(d)) which allows the IIC to approve stencils, labels, box dies, and brands used on shipping containers and on such immediate containers as tierces, barrels, drums, boxes, crates, and large-size fiberboard containers. Historically this provision was intended to accommodate the obvious practical problems associated with a centralized review of such materials and was designed to cover very simple labeling where there was little chance for error and no possibility of misleading the public. In recent years, however, some questions have been raised regarding the scope of this provision. In fact, some applicants have submitted relatively complex labeling for large institutional packages to the IIC for approval under this authority. Consistent with the intent of the original provision, more general provisions allowing the IIC to approve single ingredient labeling and labels for shipping containers have been included in the amended meat and poultry products inspection regulations. Thus, the labeling falling within the intended scope of the existing § 317.4(d) will be encompassed by the new § 317.4(e)(3)(ii), 317.4(e)(3)(v), 381.132(c)(3)(ii), and 318.132(c)(3)(v).

List of Subjects

9 CFR Part 306

Appeals, Meat inspection.

9 CFR Part 317

Food labeling, Meat inspection.

9 CFR Part 381

Appeals, Food labeling, Poultry inspection.

This final rule promulgates the provisions of the proposal as modified and described in the preamble. Accordingly, the Federal meat and poultry products inspection regulations (9 CFR Parts 306, 317, and 381) are amended as follows:

1. The authority citation for Parts 306 and 317 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1171(b), unless otherwise noted.

PART 306—[AMENDED]

2. The text of § 306.5 (9 CFR 306.5) is revised as follows:

§ 306.5 Appeals.

Any appeal from a decision of any Program employee shall be made to his/her immediate supervisor having jurisdiction over the subject matter of the appeal, except as otherwise provided in the applicable rules of practice. Denial of a labeling application by the inspector-in-charge shall not constitute a basis for an appeal under this section.

PART 317—[AMENDED]

3. The section title and paragraphs (a) and (d) of § 317.4 (9 CFR 317.4 (a) and (d)) are revised and paragraph (e) is added as follows:

§ 317.4 Labeling to be approved by the Administrator.

(a) No labeling shall be used on any product until it has been approved in its final form by the Administrator. For the convenience of the establishment, sketches or proofs of new labeling may be submitted in triplicate to the Standards and Labeling Division, Meat and Poultry Inspection Technical Services, in Washington, D.C., for approval, and the preparation of final labeling deferred until such approval is obtained. "Sketch" labeling is a printer's proof or other copy which clearly shows all labeling material, size, location, and an indication of final color. All final labeling shall be submitted in triplicate to the Standards and Labeling Division for approval, except where such approval may be obtained from the inspector-in-charge as specified in this section or where generic approval is granted as specified in § 317.5. Any establishment that wishes to submit any labeling to the Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Washington, D.C., for approval may do so.

* * * * *

(d) Application may be made, consistent with the requirements of this section, for a temporary approval for the use of a label or other labeling that may otherwise by deemed deficient in some particular. Temporary approvals may be granted by the Standards and Labeling Division for a period not to exceed 180 calendar days. Such an approval may be granted if (1) the proposed labeling would not misrepresent the product; (2) use of the labeling would not present any potential health, safety, or dietary problems to the consumer; (3) denial of the request would create undue economic hardship; and (4) an unfair competitive advantage would not result from the granting of the temporary approval. Temporary approvals may not be extended unless the applicant demonstrates that new circumstances, meeting the above criteria, have developed since the original temporary approval was granted.

(e) Inspector-in-charge may approve labeling in certain cases. (1) At the request of the official establishment, the inspector-in-charge may approve labeling, listed in paragraph (e)(3) of this section, which has not been submitted to the Standards and Labeling Division: *Provided,* That the labeling is so used as not to be false or misleading, and that all approvals are issued in writing in response to formal applications, and that copies of the approved applications are forwarded by the inspector-in-charge for filing and possible audit to the Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(2) Denial of a labeling application by the inspector-in-charge precludes use of the labeling unless and until

authorization is obtained under paragraph (a) of this section.

(3) The inspector-in-charge may approve: (i) Final labeling of labeling already approved in sketch or proof form by the Standards and Labeling Division and the final labeling is prepared without modification or with only minor modification as described in paragraph (e)(3)(iii) of this section or as described in § 317.5;

(ii) Labeling for single ingredient products (such as steak or lamb chops) which do not contain quality claims (such as "blue ribbon" or "choice"), negative claims (such as "no sugar added"), geographical claims, nutritional claims, guarantees, or foreign language;

(iii) Any label or other labeling which has already been approved but which contains one or more minor modifications, as set forth in this subparagraph: *Provided,* That in the opinion of the inspector-in-charge, all mandatory information remains sufficiently prominent and the labeling as modified is so used as not to be false or misleading:

(A) Brand name changes: *Provided,* That there are no design changes, the brand name does not use a term that connotes quality or other product characteristics, the brand name has no geographic significance and the brand name does not affect the name of the product;

(B) The deletion of the word "new" on new product labeling;

(C) The addition, deletion, or amendment of handling instructions: *Provided,* That the change is consistent with § 317.2 of this subchapter;

(D) Changes reflecting a change in the quantity of an ingredient shown in the formula without a change in the order of predominance shown on the label: *Provided,* That the change in quantity of ingredients complies with any minimum or maximum limits for the use of such ingredients prescribed in Parts 318 and 319 of this subchapter;

(E) Changes in the color of the labeling: *Provided,* That the inspector-in-charge is satisfied that sufficient contrast and legibility remain; or

(F) A change in the product vignette: *Provided,* That the change does not affect mandatory labeling information;

(iv) Labeling for containers of meat and meat food products sold under contract specifications to Federal Government agencies, when such product is not offered for sale to the general public: *Provided,* That the contract specifications include specific requirements with respect to labeling, and are made available to the inspector-in-charge;

(v) Labels for shipping containers which contain fully labeled immediate containers;

(vi) Labeling for products not intended for human food: *Provided,* That they comply with Part 325 of this subchapter;

(vii) Meat inspection legends, which comply with Parts 312 and 316 of this subchapter; and

(viii) Meat carcass ink brands, and meat food product ink and burning brands, which comply with Parts 312 and 316 of this subchapter.

4. The title and contents of § 317.5 (9 CFR 317.5) are revised to read as follows:

§ 317.5 Generically approved labeling.

(a) Labeling which is generically approved under paragraph (b) of this section is approved for use without additional authorization, provided the labeling shows all mandatory information in a sufficiently prominent manner and is not otherwise false or misleading in any particular. Any determination by the inspector-in-charge that labeling being used in accordance with paragraph (b) of this section is false or misleading or that labeling alleged by an establishment to be approved under paragraph (b) of this section which the inspector-in-charge determines is not so approved, shall preclude the use of the labeling and said determination shall remain in effect unless and until an alternative decision is made by the Standards and Labeling Division. A copy of any labeling to be used in accordance with paragraph (b) of this section shall be supplied to the inspector-in-charge prior to its use.

(b) Labeling which has previously been approved but which contains the following modifications is generically approved and may be used in conformity with the requirements of paragraph (a) of this section:

(1) All features of the labeling are proportionately enlarged or reduced: *Provided,* That all minimum size requirements specified in applicable regulations are met and the labeling is legible;

(2) There is substitution of such abbreviations as "lb." for "pound," or "oz." for "ounce," or the word "pound" or "ounce" is substituted for the abbreviation;

(3) A master or stock label has been approved from which the name and address of the distributor are omitted and such name and address are applied before being used (in such case, the word "prepared for" or similar statement must be shown together with the blank space reserved for the insertion of the name and address when such labels are offered for approval);

(4) During holiday seasons, wrappers or other covers bearing floral or foliage designs or illustrations or rabbits, chicks, fireworks, or other emblematic holiday designs are used with approved labeling (the use of such designs will not make necessary the application of labeling not otherwise required);

(5) There is a change in the language or the arrangement of directions pertaining to the opening of containers or the serving of the product;

(6) The addition, deletion, or amendment of a coupon, a cents-off statement, cooking instructions, packer product code information, or UPC product code information.

(7) Any change in the name or address of the packer, manufacturer, or distributor that appears in the signature line;

(8) Any change in the net weight: *Provided,* That the size of the net weight statement complies with § 317.2 of this subchapter;

(9) The addition, deletion, or amendment of recipe suggestions for the product;

(10) Any change in punctuation;

(11) Newly assigned or revised establishment numbers for a particular establishment for which use of the labeling has been approved by the Standards and Labeling Division or the inspector-in-charge assigned to that establishment;

(12) The addition or deletion of open dating information; or

(13) A change in the type of packaging material on which the label is printed.

PART 381—[AMENDED]

5. The authority citation for Part 381 reads as follows:

Authority: Sec. 14 of the Poultry Products Inspection Act, as amended by the Wholesome Poultry Products Act (21 U.S.C. 451 *et seq.*); the Talmadge-Aiken Act of September 28, 1962, (7 U.S.C. 450); and subsection 21(b) of the Federal Water Pollution Control Act, as amended by Pub. L. 91–224 and by other laws (33 U.S.C. 1171(b)) unless otherwise noted.

6. The text of § 381.35 (9 CFR 381.35) is revised as follows:

§ 381.35 Appeal inspections; how made.

Any person receiving inspection service may, if dissatisfied with any decision of an inspector relating to any inspection, file an appeal from such decision: *Provided,* That such appeal is filed within 48 hours from the time the decision was made. Any such appeal from a decision of an inspector shall be made to his immediate superior having jurisdiction over the subject matter of the appeal, and such superior shall

determine whether the inspector's decision was correct. Review of such appeal determination, when requested, shall be made by the immediate superior of the employee of the Department making the appeal determination. The cost of any such appeal shall be borne by the appellant if the Administrator determines that the appeal is frivolous. The charges for such frivolous appeal shall be at the rate of $9.28 per hour for the time required to make the appeal inspection. The poultry or poultry products involved in any appeal shall be identified by U.S. retained tags and segregated in a manner approved by the inspector pending completion of an appeal inspection: *Provided*, further, That denial of a labeling application by the inspector-in-charge shall not constitute a basis for an appeal under this section.

7. The section title and the text of § 381.132 (9 CFR 381.132) are revised as follows:

§ 381.132 Labeling to be approved by the Administrator.

(a) No labeling shall be used on any product leaving the establishment until it has been approved in its final form by the Administrator. For the convenience of the establishment, sketches or proofs of new labeling may be submitted in triplicate to the Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Washington, D.C., for approval, and the preparation of final labeling deferred until such approval is obtained. "Sketch" labeling is a printer's proof or other copy which clearly shows all labeling material, size, location, and an indication of final color. All final labeling shall be submitted in triplicate to the Standards and Labeling Division for approval, except where such approval may be obtained from the inspector-in-charge as specified in this section or where generic approval is granted as specified in § 381.134 of this subchapter. Any establishment that wishes to submit any labeling to the Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Washington, D.C., for approval may do so.

(b) Application may be made, consistent with the requirements of this section, for a temporary approval for the use of a label or other labeling that may otherwise be deemed deficient in some particular. Temporary approvals may be granted for a period not to exceed 180 calendar days. Such an approval may be granted if (1) the proposed labeling would not misrepresent the product; (2) use of the labeling would not present any potential health, safety, or dietary problems to the consumer; (3) denial of the request would create undue economic hardship; and (4) an unfair competitive advantage would not result from the granting of the temporary approval. Temporary approvals may not be extended unless the applicant demonstrates that new circumstances, meeting the above criteria, have developed since the original temporary approval was granted.

(c) Inspector-in-charge may approve labeling in certain cases.

(1) At the request of the official establishment, the inspector-in-charge may approve labeling, listed in paragraph (c)(3) of this section, which has not been submitted to the Standards and Labeling Division: *Provided*, That the labeling is so used as not to be false or misleading, and that all approvals are issued in writing in response to formal applications, and that copies of the approved applications are forwarded by the inspector-in-charge for filing and possible audit to the Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(2) Denial of a labeling application by the inspector-in-charge precludes use of the labeling unless and until authorization is obtained under paragraph (a) of this section.

(3) The inspector-in-charge may approve:

(i) Final labeling of labeling already approved in sketch or proof form by the Standards and Labeling Division and the final labeling is prepared without modification or with only minor modification as described in paragraph (c)(3)(iii) of this section or as described in § 381.134 of this subpart;

(ii) Labeling for single ingredient products (such as chicken or turkey thighs) which do not contain quality claims (such as "blue ribbon" or "choice"), negative claims (such as "no sugar added"), geographical claims, nutritional claims, guarantees, or foreign language;

(iii) Any label or other labeling which has already been approved but which contains one or more minor modifications, as described below: *Provided*, That in the opinion of the inspector-in-charge, all mandatory information remains sufficiently prominent and the labeling as modified is so used as not to be false or misleading:

(A) Brand name changes: *Provided*, That there are no design changes, the brand name does not use a term that connotes quality or other product characteristics, the brand name has no geographic significance, and the brand name does not affect the name of the product;

(B) The deletion of the word "new" on new product labeling;

(C) The addition, deletion, or amendment of handling instructions: *Provided*, That the change is consistent with § 381.125 of this subchapter; or

(D) Changes reflecting a change in the quantity of an ingredient shown in the formula without a change in the order of predominance shown on the label: *Provided*, That the change in quantity of ingredients complies with any minimum or maximum limits for the use of such ingredients prescribed in § 381.147;

(E) Changes in the color of the labeling: *Provided*, That the inspector-in-charge is satisfied that sufficient contrast and legibility remain;

(F) The addition, deletion, or substitution of the official USDA grade shield;

(G) A change in the product vignette: *Provided*, That the change does not affect mandatory labeling information.

(iv) Labeling for containers of poultry products sold under contract specifications to Federal governmental agencies when such product is not offered for sale to the general public: *Provided*, That the contract specifications include specific requirements with respect to labeling, and are made available to the inspector-in-charge;

(v) Labels for shipping containers which contain fully labeled immediate containers. Such labels shall comply with § 381.127;

(vi) Labeling for products of poultry not intended for human food if they comply with § 381.152(c), and labels for poultry heads and feet for export for processing as human food if they comply with § 381.190(b);

(vii) Poultry inspection legends, if they comply with Subpart M of this part;

(viii) Inserts, tags, liners, pasters, and like devices containing printed or graphic matter and for use on, or to be placed within, containers, and coverings of product provided such devices contain no reference to product and bear no misleading feature;

(8) The title and contents of § 381.134 (9 CFR 381.134) are revised to read as follows:

§ 381.134 Generically approved labeling.

(a) Labeling which is generically approved under paragraph (b) of this section is approved for use without additional authorization, provided the labeling shows all mandatory information in a sufficiently prominent manner and is not otherwise false or

misleading in any particular. Any determination by the inspector-in-charge that labeling being used in accordance with paragraph (b) of this section is false or misleading or that labeling alleged by an establishment to be approved under paragraph (b) of this section which the inspector-in-charge determines is not so approved, shall preclude the use of the labeling and said determination shall remain in effect unless and until an alternative decision is made by the Standards and Labeling Division. A copy of any labeling to be used in accordance with paragraph (b) of this section shall be supplied to the inspector-in-charge prior to its use.

(b) Labeling which has previously been approved but which contains the following modifications is generically approved and may be used in conformity with the requirements of paragraph (a) of this section:

(1) All features of the label are proportionately enlarged or reduced: *Provided*, That all minimum size requirements specified in applicable regulations are met and the labeling is legible;

(2) There is substitution of such abbreviations as "lb." for "pound," or "oz." for "ounce," or the word "pound" or "ounce" is substituted for the abbreviation;

(3) A master or stock label has been approved from which the name and address of the distributor are omitted and such name and address are applied before being used (in such case, the words "prepared for" or similar statement must be shown together with the blank space reserved for the insertion of the name and address when such labels are offered for approval);

(4) During holiday seasons, wrappers or other covers bearing floral or foliage designs or illustrations of rabbits, chicks, fireworks, or other emblematic holiday designs are used with approved labeling (the use of such design will not make necessary the application of labeling not otherwise required);

(5) There is a change in the language or the arrangement of directions pertaining to the opening of containers or the serving of the product;

(6) The addition, deletion, or amendment of a coupon, a cents-off statement, cooking instructions, packer product code information, or UPC product code information;

(7) Any change in the name or address of the packer, manufacturer, or distributor that appears in the signature line;

(8) Any change in the net weight: *Provided*, That the size of the net weight statement complies with § 381.121 of this subchapter;

(9) The addition, deletion, or amendment of recipe suggestions for the product;

(10) Any changes in punctuation;

(11) Newly assigned or revised establishment numbers for a particular establishment for which use of the labeling has been approved by the Standards and Labeling Division or the inspector-in-charge assigned to that establishment;

(12) The addition or deletion of open dating information; or

(13) A change in the type of packaging material on which the label is printed.

§ 381.135 [Reserved]

9. Section 381.135 (9 CFR 381.135) is removed and the section number is reserved.

Information collection requirements contained in this regulation (§§ 306.5, 317.4, 317.5, 381.35, 381.132, and 381.134) have been approved by the Office of the Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0583-0015.

Done at Washington, D.C., on February 24, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 83-7204 Filed 3-17-83; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 308

Hearing

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is amending § 308.61 of its regulations (12 CFR 308.61) to delegate to the Executive Secretary the authority to (1) designate presiding officers for hearings under § 308.59 of its regulations (12 CFR 308.59) and (2) set a later hearing date.

EFFECTIVE DATE: March 18, 1983.

FOR FURTHER INFORMATION CONTACT: Margaret M. Olsen, Assistant Executive Secretary, 550 17th Street, NW., Washington, D.C. 20429, telephone (202) 389-4446.

SUPPLEMENTARY INFORMATION: Section 308.59 of FDIC's regulations provides that an individual subject to suspension and removal proceedings under section 8(g) of the Federal Deposit Insurance Act ("FDI Act," 12 U.S.C. 1818(g)) or, in the case of a petition for reconsideration of a denial of an application under section 19 of the FDI Act (12 U.S.C. 1829), the bank or the affected individual, may request a hearing. Under section 308.61 of FDIC's regulations, the Board of Directors designates the presiding officer for any such hearing and may order a later hearing date upon petition. (The Executive Secretary sets the original hearing date.) For reasons of administrative ease and efficiency, the Board is delegating authority to the Executive Secretary to designate the presiding officers and to set a later hearing date.

These amendments relate solely to internal agency practices and procedures and, therefore, the notice, public comment and delayed effective date requirements of 5 U.S.C. 553 are not applicable. The amendments also would not have a significant economic impact on a substantial number of small entities and would not impose any recordkeeping or reporting requirements on any person. Thus, under FDIC's policy statement on drafting regulations entitled, "Development and Review of FDIC Rules and Regulations," a cost-benefit analysis is not required.

List of Subjects in 12 CFR Part 308

Administrative practice and procedure, Claims, Courts, Equal access to justice, Lawyers, Penalties.

PART 308—[AMENDED]

Accordingly, the Board of Directors amends Part 308 as set forth below.

1. The authority citation for Part 308 reads as follows:

Authority: Sec. 2(9), Pub. L. 797, 64 Stat. 881 (12 U.S.C. 1819); sec. 18, Pub. L. 94-29, 89 Stat. 155 (15 U.S.C. 78w); sec. 801, Pub. L. 95-630, 92 Stat. 3641 (12 U.S.C. 1972); sec. 203, Pub. L. 96-481, 94 Stat. 2325 (5 U.S.C. 504).

2. Paragraph (a) of § 308.61 is revised to read as follows:

§ 308.61 Hearing.

(a) The Executive Secretary shall order a hearing to commence within 30 days after receipt of a request for hearing pursuant to § 308.59, except in the case of a petition for reconsideration of denial of a section 19 application, for which the time periods set forth in § 303.10(d) shall apply. The hearing shall be held in Washington, D.C., or at another designated place, before a presiding officer designated by the Executive Secretary. The Executive Secretary may order a later hearing date upon petition of the individual or, in the case of a section 19 denial, the affected individual or the bank afforded the hearing.

* * * * *